

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
COLORADO RIVER BASIN REGION**

ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R7-2009-0005  
IN THE MATTER OF  
CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION AND  
CENTINELA STATE PRISON, OWNER/OPERATOR WASTEWATER TREATMENT PLANT;  
Imperial - Imperial County

This Order to assess Administrative Civil Liability (ACL) pursuant to California Water Code (CWC) Section 13385 is issued to California Department of Corrections and Rehabilitation and Centinela State Prison (hereinafter Discharger) based on a finding of violations of Waste Discharge Requirements (WDRs) Order No. R7-2003-0096, National Pollutant Discharge Elimination System (NPDES) Permit No. CA7000001.

The Colorado River Basin Regional Water Quality Control Board (Regional Board) finds the following:

1. The California Department of Corrections and Rehabilitation (Discharger) owns and operates the Centinela State Prison Wastewater Treatment Plant (WWTP), which services the Centinela State Prison. The Discharger's WWTP, located at 2302 Brown Road, Imperial, CA 92251, was purportedly designed to treat 0.73 million gallons per day (MGD).
2. The WWTP consists of headworks, four (4) aerated ponds operated in series, and chlorination and dechlorination facilities. Raw sewage flows by gravity through the collection system to the influent wet well where it is then raised 19-feet by 36-inch diameter screw pumps to the treatment facility. The wastewater then passes through a mechanical bar screen and a comminutor before entering the aerated lagoon system. The ponds are lined with 45-mil hypalon on the sides and compacted clay on the bottom. Downstream of the last treatment pond, wastewater enters a chlorination/dechlorination system. The wastewater is disinfected with chlorine gas and then dechlorinated with sulfur dioxide prior to discharge to the Dixie Drain 1-C via an outfall pipe.
3. On June 25, 2003, the Regional Board adopted WDRs Order No. R7-2003-0096 (NPDES Permit No. CA7000001) for the Discharger in order to regulate discharges of treated wastewater from the WWTP into the Dixie Drain 1-C. The Discharger's WWTP discharges its effluent through Outfall 001 to the Dixie Drain 1-C; Dixie Drain 1-C conveys the effluent to the New River, which in turn ultimately discharges into the Salton Sea. The Dixie Drain 1-C, New River, and Salton Sea are waters of the United States.
4. CWC Section 13385(i)(1) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in a six-month period:
  - a. Violates a waste discharge requirement effluent limitation;
  - b. Fails to file a report pursuant to Section 13260;
  - c. Files an incomplete report pursuant to Section 13260; or
  - d. Violates a toxicity effluent limitation contained in the applicable waste discharge.

5. CWC Section 13385(i)(2) states the following:

“For the purpose of this section [13385], a ‘period of six consecutive months’ means the period commencing on the date that one of the violations described in this subdivision occurs and ending 180 days after that date.”

6. CWC Section 13385(l) states:

“(1) In lieu of assessing penalties pursuant to subdivision (h) or (i), the state board or regional board, with the concurrence of the discharger, may direct a portion of the penalty amount to be expended on a supplemental environmental project (SEP) in accordance with the enforcement policy of the state board. If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to be expended on a supplemental environmental project may not exceed fifteen thousand dollars (\$15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars (\$15,000).”

“(2) For the purposes of this section, a ‘supplemental environmental project’ means an environmentally beneficial project that a person agrees to undertake, with the approval of the regional board that would not be undertaken in the absence of an enforcement action under this section.”

7. On February 19, 2002, the State Water Resources Control Board adopted Resolution No. 2002-0040 amending the Water Quality Enforcement Policy (Policy). The Policy was approved by the Office of Administrative Law and became effective on July 30, 2002. In accordance with Section IX of the Policy, among other requirements, SEPs proposed by the Discharger must “enhance the beneficial uses of the waters of the State, provide a benefit to the public at large, and that, at the time they are included in an ACL action, are not otherwise required of the discharger.” (Enforcement Policy pp 42-43).

8. WDRs Board Order No. R7-2003-0096 includes the following effluent discharge limitations for the 5-day biological oxygen demand (BOD<sub>5</sub>) and effluent flow:

”[Effluent Limitation A.1] Representative samples of wastewater discharged to the Dixie Drain 1-C from the treatment systems shall not contain constituents in excess of the limits indicated below. Each treatment system discharging to the Dixie Drain 1-C shall be monitored separately at locations which are acceptable by the Regional Board’s Executive Officer or his designee:

Constituent	Unit	30-Day Arithmetic Mean Discharge Rate <sup>1</sup>	7-Day Arithmetic Mean Discharge Rate <sup>2</sup>
20° C BOD <sub>5</sub> <sup>3</sup>	lb/day <sup>4</sup>	274 <sup>5</sup>	396

<sup>1</sup> 30-Day Mean- Arithmetic average of all samples collected during the calendar month

<sup>2</sup> 7-Day Mean- Arithmetic average of all samples collected during a calendar week (Sunday through Saturday)

<sup>3</sup> BOD<sub>5</sub> - Biochemical Oxygen Demand

<sup>4</sup> lb/day - pounds per day

<sup>5</sup> Based on a design treatment capacity of 0.73 MGD”

"[Effluent Limitation A.4] Wastewater effluent discharged to the Dixie Drain 1-C shall not have a geometric mean *Escherichia coli* (E. coli) concentration in excess of 126 Most Probable Number (MPN) per 100 milliliters (based on a minimum of not less than five (5) samples for any 30-day period) nor shall any sample exceed 400 MPN per 100 milliliters. The compliance point for this effluent limitation shall be at a location acceptable to the Regional Board's Executive Officer or his designee."

"[Specification D.3] The permitted 30-day monthly average daily dry weather discharge flow shall not exceed 0.73 MGD."

9. Provision E.5 of WDRs Board Order No. R7-2003-0096 states the following:  
"The discharger shall comply with Monitoring and Reporting Program No. R7-2003-0096, and future revisions thereto, as specified by the Regional Board's Executive Officer."
10. Monitoring reports submitted by the Discharger show that the wastewater discharged from the Discharger's WWTP was in chronic violation of its WDRs effluent limitations for exceeding the flow limits and biochemical oxygen demand (BOD), cited in Finding No. 8 above, from July 2003 until April 2007 when it installed flush control devices in each prison cell. The WWTP has also had periodic problems with chronic and acute toxicity.
11. On September 6, 2005, the Regional Board sent a Notice of Noncompliance letter to the Discharger, affirming the violation of the Monitoring and Reporting Requirements set forth in Board Order No. R7-2003-0096. The Notice of Noncompliance stated in relevant part the following:  
"Centinela State Prison failed to comply with the monitoring and reporting requirements established in the Monitoring and Reporting Program of Board Order R7-2003-0096. The facility failed to collect a minimum of five effluent E. coli samples during the July 2005 monitoring and reporting period, only four effluent E. coli samples were collected."
12. The reporting violation cited in Finding No. 9 above is not subject to a MMP and will therefore not be included in Attachment "A"; however, the maximum liability available to the Regional Board per CWC 13385(c) for a violation of the Monitoring and Reporting Requirements is \$10,000.
13. A summary of each violation of Board Order No. R7-2003-0096 is contained in Attachment "A", which is incorporated in and made a part of this ACL Order No. R7-2009-0005 by reference.
14. The total amount of the MMP for the violations cited in Attachment "A" is \$78,000.
15. On August 14, 2008, the Regional Board Assistant Executive Officer issued ACL Complaint No. R7-2008-0018 proposing that the Discharger pay seventy-eight thousand dollars (\$78,000) in ACL (MMP) for the violations.
16. The Regional Board has notified the Discharger and the general public of its intent to hold a hearing on this matter within 90 days from the date the Complaint was issued unless the Discharger waives its right to a hearing under CWC Section 13323(b). By signing the Waiver of 90-Day Hearing Requirement for Administrative Civil Liability Complaint on September 15, 2008, the Discharger waived its right to a hearing within 90 days on this matter.

17. On October 30, 2008, the Discharger proposed the implementation of two SEPs described in Attachment "B", which is made a part of this ACL Order by reference.
18. The Regional Board heard and considered all comments pertaining to this matter in a public meeting held on January 22, 2009 in El Centro, California.
19. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), in accordance with Section 15321(a)(2), Title 14, California Code of Regulations.
20. Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with CWC Section 13320 and California Code of Regulations, Title 23, Sections 2050 and following. The State Water Board must receive the petition no later than 5:00 p.m., thirty (30) days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality). Copies will also be provided upon request.

IT IS HEREBY ORDERED, pursuant to CWC Section 13385, the Discharger is assessed seventy-eight thousand dollars (\$78,000) in ACL penalties for the violations set forth in Attachment "A". In lieu of paying an ACL penalty in the amount of \$78,000, the Discharger shall pay a reduced penalty amount of \$31,500 in accordance with CWC Section 13385(l) and shall implement the proposed Imperial County wetland project and outreach and education SEPs described in Attachment "B", attached to and made part of this Order by reference, in accordance with the following:

1. The Discharger shall comply with the State Water Board Enforcement Policy relating to implementation of SEPs.
2. The SEP shall be implemented in accordance with the time schedule stipulated in Attachment "C", attached to and made a part of this Board Order by reference. The Regional Board Executive Officer may modify the stipulated completion date and approve an alternative completion date for the SEP if he determines that a delay is necessary for a timely return of the Discharger to full and sustained compliance with its WDRs, and is beyond the reasonable control of the Discharger.
3. The suspended portion of the proposed ACL penalty of \$78,000 that is hereby directed to be expended on the SEP is \$46,500. The Discharger shall pay within thirty (30) days of the date of this Order the remaining penalty portion of \$31,500. Payment by check of this amount shall be made payable to the "State Water Pollution Cleanup and Abatement Account" and mailed to the address shown in paragraph 7 below.
4. If the Discharger completes a stipulated phase of the SEP to the satisfaction of the Executive Officer by the approved date, the corresponding portion of the ACL penalty indicated in Attachment "C", the amount of \$46,500 shall be permanently suspended. Similarly, if the Discharger fails to complete any stipulated phase of the SEP to the satisfaction of the Executive Officer by the approved date, and the Executive Officer has

not approved an extension in the completion date, the corresponding portion of the ACL penalty shall become due and payable by the Discharger within 30 days of being so informed in writing.

5. Previously suspended amounts do not relieve the discharger of the independent obligation to take necessary actions to achieve compliance.
6. Completion of the SEP shall be certified in writing by the Executive Officer. No portion of the ACL shall be suspended without a written certification issued by the Executive Officer.
7. The Discharger shall submit all unsuspended ACL amounts, made payable to the "State Water Pollution Cleanup and Abatement Account", to the following address:

California Regional Water Quality Control Board  
Colorado River Basin Region  
ATTN: Hilda Vasquez  
73-720 Fred Waring Drive, Suite 100  
Palm Desert, CA 92260

I, Robert Perdue, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of an Order adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, on January 22, 2009.



ROBERT PERDUE, Executive Officer

**ATTACHMENT "A"**

Summary of Violations of Board Order No. R7-2003-0096 Mandatory Minimum Penalties

<b>Assessed Violation No.<sup>1</sup></b>	<b>Date Occurred</b>	<b>Description of Violation</b>	<b>Amount Assessed Dollars (\$)</b>
241460	07/31/03	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.754 MGD	0 <sup>2</sup>
755496	08/31/03	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.770 MGD	0 <sup>2</sup>
755495	09/30/03	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.778 MGD	0 <sup>2</sup>
755494	10/31/03	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.762 MGD	3,000
755493	11/30/03	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.769 MGD	3,000
755490	12/31/03	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.740 MGD	3,000
755309	02/29/04	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.745 MGD	3,000
755307	03/31/04	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.770 MGD	3,000
755306	04/30/04	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.759 MGD	3,000
755305	05/31/04	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.767 MGD	3,000
365134	10/31/05	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.743 MGD	0 <sup>2</sup>
364971	11/30/05	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.741 MGD	0 <sup>2</sup>
407442	03/31/06	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.889 MGD	0 <sup>2</sup>
407441	04/30/06	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.890 MGD	3,000

<sup>1</sup> Data Source: California Integrated Water Quality System (CIWQS)

<sup>2</sup> Supporting Violation

California Department of Corrections and Rehabilitation  
 Centinela State Prison Wastewater Treatment Plant  
 Administrative Civil Liability Order No. R7-2009-0005

<b>Assessed Violation No.</b>	<b>Date Occurred</b>	<b>Description of Violation</b>	<b>Amount Assessed Dollars (\$)</b>
427552	05/31/06	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.886 MGD	3,000
419845	06/30/06	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.869 MGD	3,000
427264	7/31/06	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.945 MGD	3,000
433094	8/31/06	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.934 MGD	3,000
437939	09/30/06	Exceeded Average Monthly Effluent Limit of 274 lbs/day for BOD <sub>5</sub> Reported value = 295 lbs/day	3,000
437940	09/30/06	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.991 MGD	3,000
443351	10/31/06	Exceeded Average Monthly Effluent Limit of 274 lbs/day for BOD <sub>5</sub> Reported value = 281 lbs/day	3,000
443352	10/31/06	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.962 MGD	3,000
446334	11/30/06	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 1.046 MGD	3,000
450031	12/31/06	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 1.090 MGD	3,000
450032	12/31/06	Exceeded Average Monthly Effluent Limit of 274 lbs/day for BOD <sub>5</sub> Reported value = 309 lbs/day	3,000
473108	01/31/07	Exceeded Average Monthly Effluent Limit of 274 lbs/day for BOD <sub>5</sub> Reported value = 298 lbs/day	3,000
473109	01/31/07	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 1.049 MGD	3,000
496709	03/31/07	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 1.026 MGD	3,000
496710	03/31/07	Exceeded Average Monthly Effluent Limit of 274 lbs/day for BOD <sub>5</sub> Reported value = 290 lbs/day	3,000
530926	04/30/07	Exceeded Average Monthly Flow Limit of 0.73 MGD Reported value = 0.889 MGD	3,000

**Total Accrued Mandatory Minimum Penalty:**

**\$78,000**

**ATTACHMENT "B"**

STATE OF CALIFORNIA — DEPARTMENT OF CORRECTIONS AND REHABILITATION

ARNOLD SCHWARZENEGGER, GOVERNOR

**OFFICE OF LEGAL AFFAIRS**

Benjamin T. Rice  
Assistant Secretary  
P.O. Box 942883  
Sacramento, CA 94283-0001



October 30, 2008

Jose L. Angel  
Doug Wylie  
California Regional Water Quality Control Board  
73-720 Fred Waring Drive, Suite 100  
Palm Desert, CA 92260

**RE: ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R7-2008-0018  
(CENTINELA STATE PRISON)**

Gentlemen:

The purpose of this letter is to acknowledge and accept the proposed \$78,000 civil liability fine detailed in the subject complaint. Accordingly, the California Department of Corrections and Rehabilitation (CDCR) proposes a settlement plan paying \$31,500 to the "State Water Pollution Cleanup and Abatement Account." CDCR further proposes two Special Environmental Projects (SEP) totaling \$46,500 for the remainder of the fine.

CDCR's first proposed SEP involves supporting operation and maintenance at the Imperial and Brawley Pilot Wetland and the Shank Road (AR-21) Wetland. The Imperial Irrigation District (IID) estimates that annual expenses associated with these sites total \$56,049.65. Moreover, IID has been without dedicated funding since 2006. CDCR proposes providing IID with \$41,500 to use at their discretion. Some of the major expenses outlined by IID include pond and general wetland maintenance estimated at \$15,600 annually and water level adjustment totaling \$11,223.75 annually. Enclosed please find a copy of IID's Scope of Services dated February 26, 2007, which further details the tasks and costs involved.

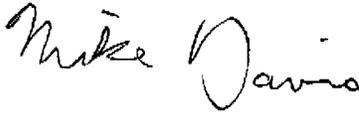
CDCR's second proposed SEP would allocate \$5,000 to Desert Wildlife Unlimited (DWU). DWU, located in Brawley, has a grade school level wetland education and outreach program. The \$5,000 would be directed toward funding transportation costs associated with educational field trips and the purchase of materials and eggs for raising and releasing ducks into the wetlands.

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Jose L. Angel  
Doug Wylie  
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Thank you for your consideration of this proposal. It is my understanding that my personal appearance is required at the November 19, 2008, hearing. If this not the case, please let me know. My direct line is (916) 324-8756.

Sincerely,

A handwritten signature in black ink that reads "Mike Davis". The signature is written in a cursive, slightly slanted style.

JAMES MICHAEL DAVIS  
Senior Staff Counsel  
Office of Legal Affairs

Enclosure

cc: Alan Hernandez – Centinela State Prison  
Pat Daugherty – Centinela State Prison  
Juan Nessi – Centinela State Prison

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**ATTACHMENT "C"**

STIPULATED TIME SCHEDULE  
FOR THE IMPLEMENTATION OF SUPPLEMENTAL ENVIRONMENTAL PROJECTS

Phase No.	Description of SEP	Completion Date	Due Date	Portion of ACL Penalty that May be Suspended
1	Operation and Maintenance for the Imperial and Brawley Pilot Wetland Sites and Shank Road (AR-21) Wetland	December 31, 2009	Final report due on or before January 15, 2010	\$41,500
2	Wetland Education and Outreach Program. Funding allocated to Desert Wildlife Unlimited	December 31, 2009	Final report due on or before January 15, 2010	\$5,000